

PUBLIC SAFETY COMMITTEE

12-0474R

RESOLUTION AUTHORIZING MUTUAL AID AGREEMENT WITH THE  
CITY OF SUPERIOR.

CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to execute an agreement, substantially the same as that on file in the office of the city clerk as Public Document No. \_\_\_\_\_, with the city of Superior, Wisconsin, to facilitate cooperation and assistance between the police departments in emergency situations and for the purpose of generating and executing search warrants relating to the enforcement of drug control laws.

Approved:

  
Department Director


Approved for presentation to council:

  
Chief Administrative Officer

Approved as to form:

  
Attorney

Approved:

  
Auditor

DPD/ATTY TLL:dma 09/13/2012

STATEMENT OF PURPOSE: The respective police departments of the cities of Duluth and Superior have cooperated with and assisted each other for many years under the terms of a mutual aid agreement. The agreement needed to be updated and brought into compliance with current statutes. This resolution authorizes the execution of a new Mutual Aid Agreement that meets the needs of both departments and that complies with the requirements of current law.

## MUTUAL AID AGREEMENT

THIS AGREEMENT, entered into by and between the CITY OF DULUTH, MINNESOTA, (hereinafter "Duluth"), and the CITY OF SUPERIOR, WISCONSIN, (hereinafter "Superior"), both parties being governmental and political subdivisions of their respective states and responsible for the enforcement of criminal laws in their respective jurisdictions.

WHEREAS, both Duluth and Superior employ full-time police officers for the purpose of maintaining law and order within their respective corporate limits and affording police protection to their respective citizens; and

WHEREAS, both Duluth and Superior are desirous of having their respective police officers extend their jurisdiction beyond their respective corporate limits for the purpose of generating and executing search warrants relating to the enforcement of drug control laws and providing assistance in emergency situations to enforce the statutes and ordinances enacted by the states of Minnesota and Wisconsin and the cities of Duluth and Superior, respectively;

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, Duluth and Superior agree as follows:

### **Purpose**

This Agreement is made pursuant to Minnesota Statutes §471.59 and Wisconsin Statutes §175.46 which authorize the joint and cooperative exercise of powers common to contracting parties. The intent of this Agreement is to make equipment, personnel and other resources available to political subdivisions from other political subdivisions.

### **Definitions**

1. "Party" means a political subdivision.
2. "Requesting Official" means the person designated by a Party who is responsible for requesting Assistance from other Parties.
3. "Requesting Party" means a party that requests assistance from other parties.
4. "Responding Official" means the person designated by a party who is responsible to determine whether and to what extent that party should provide assistance to a Requesting Party.
5. "Responding Party" means a party that provides assistance to a Requesting Party.
6. "Assistance" means law enforcement personnel and equipment.

### **Procedure**

1. **Request for assistance.** Whenever, in the opinion of a Requesting Official, there is a need for assistance from other parties, the Requesting Official may call upon the Responding Official of the other party to furnish assistance.
2. **Response to request.** Upon the request for assistance from a Requesting Party, the Responding Official may authorize and direct his/her personnel to provide assistance to the Requesting Party. This decision will be made after considering the needs of the Responding Party and the availability of resources.

**3. Recall of assistance.** The Responding Official may at any time recall such assistance when in his or her best judgment or by an order from the governing body of the Responding Party, it is considered to be in the best interests of the Responding Party to do so.

**4. Command of scene.** The Requesting Party shall be in command of the mutual aid scene. The personnel and equipment of the Responding Party shall be under the direction and control of the Requesting Party until the Responding Official withdraws assistance.

**5. Power of officers.** The Joint Exercise of Powers Act and the applicable Wisconsin statute entitle officers acting pursuant to this Agreement to the full and complete authority of a peace officer as though appointed by both governmental units and licensed accordingly.

### **Workers' Compensation and Employee Benefits**

Each party shall be responsible for injuries or death of its own personnel. Each party will maintain workers' compensation insurance or self-insurance coverage, covering its own personnel while they are providing assistance pursuant to this Agreement. Each party waives the right to sue the other party for any workers' compensation benefits paid to its own employee or volunteer or their dependents, even if the injuries were caused wholly or partially by the negligence of the other party or its officers, employees or volunteers. Any law enforcement employee providing assistance pursuant to this Agreement shall continue to be covered by his or her employing agency for purposes of unemployment compensation, disability, vacation leave and other employee benefits in his or her home state.

### **Damage to Equipment**

Each party shall be responsible for damages to or loss of its own equipment. Each party waives the right to sue the other party for any damages to or loss of its equipment, even if the damages or losses were caused wholly or partially by the negligence of the other party or its officers, employees or volunteers.

### **Tort Liability**

1. For the purposes of the Minnesota Municipal Tort Liability Act (Minn. Stat. ch 466) and Wisconsin Claims Against Governmental Units Act (Wis. Stat. ch 893), each employee and officer of the Responding Party shall continue to be considered, for liability purposes, an employee and officer of the Responding Party, regardless of the supervision or control over the employee's or officer's actions. The employee or officer is considered as continuing to be an employee of the agency employing him or her in the officer's home state.

2. The Requesting Party agrees to defend and indemnify the Responding Party against any claims brought or actions filed against the Responding Party or any officer, employee, or volunteer of the Responding Party for injury to, death of, or damage to the property of any third person or persons, arising from the performance and provision of assistance in responding to a request for assistance by the Requesting Party pursuant to this Agreement.

Under no circumstances, however, shall a party be required to pay on behalf of itself and other parties, any amounts in excess of the limits on liability established by the respective statutes applicable to any one party. The limits of liability for some or all of the parties may not be

added together to determine the maximum amount of liability for any party. For purposes of determining total liability for damages, the parties shall be considered a single governmental unit and the tort liability for the parties shall not exceed the limits on governmental liability for a single governmental unit.

The intent of this subdivision is to impose on each Requesting Party a limited duty to defend and indemnify a Responding Party for claims arising within the Requesting Party's jurisdiction subject to the limits of liability under the law. The purpose of creating this duty to defend and indemnify is to simplify the defense of claims by eliminating conflicts among defendants, and to permit liability claims against multiple defendants from a single occurrence to be defended by a single attorney.

Nothing herein shall be construed as a waiver of any municipal tort liability limits, governmental immunities or defenses. Any employee and officer acting under this agreement is subject to any immunity from liability or limit on liability to the same extent as any employee or officer of the other state.

3. No party to this Agreement nor any officer of any Party shall be liable to any other Party or to any other person for failure of any party to furnish assistance to any other party, or for recalling assistance, both as described in this Agreement.

#### **Charges to the Requesting Party**

1. The Responding Party may charge the Requesting Party for assistance rendered. Such charges shall be limited to actual wages and benefits expended by the Responding Party for personnel utilized during the assistance event and shall not include charges for incidental expenses including use of equipment or consumption of fuel. When practicable and upon request by the Requesting Party, the Responding Party shall communicate an approximation of its anticipated personnel expenses to the Requesting Party in advance of the assistance event. The parties recognize that Federal Emergency Management Association (FEMA) monies may be precluded if charges are not paid to the Responding Party for assistance that exceeds short-term. Therefore, if assistance provided under this Agreement continues for more than 48 hours, the Responding Party will submit to the Requesting Party an itemized bill for the actual cost of any assistance provided after the initial 48 hour period, including salaries, overtime, materials and supplies and other necessary expenses; and the Requesting Party will reimburse the party providing the assistance for that amount.

2. Such charges are not contingent upon the availability of federal or state government funds.

#### **Duration**

This Agreement shall commence on the date that all parties have executed this agreement, as set forth on the latest date of the signatures below. This Agreement shall remain in full force and effect until it shall be terminated in the manner provided herein.

**Termination**

This Agreement may be terminated by either party upon fifteen (15) days written notice to the other party. Such notice shall be delivered to the Mayor or the Clerk of the City with a copy to the respective Chief of Police.

**Execution**

Each party hereto has read, agreed to and executed this Mutual Aid Agreement on the date indicated.

**CITY OF DULUTH, MINNESOTA**

By: \_\_\_\_\_  
Its Mayor

Date: \_\_\_\_\_

Attest: \_\_\_\_\_  
Its Clerk

Countersigned:

\_\_\_\_\_  
City Auditor

Approved as to form:

\_\_\_\_\_  
City Attorney

**CITY OF SUPERIOR, WISCONSIN**

By: \_\_\_\_\_  
Its Mayor

Date: \_\_\_\_\_

Attest: \_\_\_\_\_  
Its Clerk

Approved as to form:

\_\_\_\_\_  
City Attorney